

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 15-20577

v.

HON. BERNARD A. FRIEDMAN

HERBERT BERNARD JOHNSON,

VIO: 18 U.S.C. § 2422(b)

18 U.S.C. § 2423(b)

Defendant.

18 U.S.C. § 2252A(a)(2)

18 U.S.C. § 2252A(a)(5)(B)

FILED

SEP 29 P 3:08

U.S. DIST. COURT CLERK
EAST. DIST. MICHIGAN
DETROIT

SECOND SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

18 U.S.C. § 2422(b)

Attempted Coercion and Enticement of a Minor

On or about and between August 25, 2015, through on or about September 9, 2015, both dates being approximate and inclusive, within the Eastern District of Michigan and elsewhere, the defendant, HERBERT BERNARD JOHNSON, did knowingly and unlawfully use any facility and means of interstate and foreign commerce to attempt to persuade, induce, entice, and coerce any individual who had

not attained the age of 18 years, to engage in any sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

COUNT TWO

18 U.S.C. § 2423(b)

Travel with Intent to Engage in Illicit Sexual Activity

On or about and between September 5, 2015, through on or about September 6, 2015, both dates being approximate and inclusive, within the Eastern District of Michigan and elsewhere, the defendant, HERBERT BERNARD JOHNSON, did travel in interstate commerce, that is, from the State of Colorado to the State of Michigan, for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f)(1), with a minor that HERBERT BERNARD JOHNSON believed to be fifteen years old, in violation of 18 U.S.C. § 2423(b).

COUNT THREE

18 U.S.C. § 2252A(a)(1)

Transportation of Child Pornography

On or about and between September 5, 2015, through on or about September 6, 2015, both dates being approximate and inclusive, within the Eastern District of Michigan and elsewhere, the defendant, HERBERT BERNARD JOHNSON, did knowingly transport child pornography, that is, visual depictions of sexually explicit conduct, including, but not limited to, the lascivious exhibition of the genitals or pubic area as defined in 18 U.S.C. § 2256(8)(A), using any means or facility of interstate or foreign commerce, and in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252A(a)(2).

COUNT FOUR

18 U.S.C. § 2252A(a)(5)(B)
Possession of Child Pornography

On or about September 6, 2015, in the Eastern District of Michigan and elsewhere, defendant, HERBERT BERNARD JOHNSON, did knowingly possess material containing child pornography, that is, visual depictions of sexually explicit conduct that involved prepubescent minors and minors who had not attained 12 years of age, including, but not limited to, the lascivious exhibition of the genitals or pubic area as defined in 18 U.S.C. § 2256(8)(A); where the production of such child pornography involved the use of a real minor engaged in sexually explicit conduct, that had been produced using materials that had been mailed and shipped and transported in interstate and foreign commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

FORFEITURE ALLEGATIONS

18 U.S.C. §2253; 28 U.S.C. § 2461(c)
Criminal Forfeiture

The allegations contained in Counts One through Five of this First Superseding Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 2253, and Title 28 United States Code, Section 2461(c).

Upon conviction of one or more of the offenses charged in Counts One, Two, Three, Four, and Five of the Indictment, defendant shall, pursuant to Title 18, United States Code, Section 2253, forfeit to the United States the following:

- a) Any visual depiction described in Title 18, United States Code, Sections 2251, 2251A, or 2252, 2252A, 2252B, or 2260, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of these subsections;
- b) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and
- c) Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

If any of the property subject to forfeiture pursuant to Title 18, United States Code, Section 2253, and Title 28 United States Code, Section 2461(c), as a result of any act or omission of the defendant--

- a) cannot be located upon the exercise of due diligence;

- b) has been transferred to, sold to, or deposited with a third party;
- c) has been placed beyond the jurisdiction of this Court;
- d) has been substantially diminished in value; or
- e) has been commingled with other property which cannot be divided without difficulty;

the United States of America intends to seek forfeiture of all other property of the defendant up to the value of forfeiture applicable in this case.

THIS IS A TRUE BILL.

s/ Grand Jury Foreperson

Grand Jury Foreperson

BARBARA L. MCQUADE
UNITED STATES ATTORNEY

s/ Matthew A. Roth

MATTHEW A. ROTH

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Assistant United States Attorney

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s/ Margaret M. Smith

MARGARET M. SMITH

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Dated: September 29, 2016

United States District Court
Eastern District of Michigan**Criminal Case Cover Sheet**

Case Number

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []**Companion Case Information**

Companion Case Number:

This may be a companion case based upon LCrR 57.10 (b)(4)¹:

Judge Assigned:

☐ Yes☒ NoAUSA's Initials: Case Title: USA v. Herbert Bernard JohnsonCounty where offense occurred : Wayne

Check One:

☒ Felony☐ Misdemeanor☐ Indictment/ ☐ Information --- no prior complaint.☐ Indictment/ ☐ Information --- based upon prior complaint [Case number:]☒ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].**Superseding Case Information**Superseding to Case No: 15-cr-20577Judge: Bernard A. Friedman

- ☐ Original case was terminated; no additional charges or defendants.
- ☐ Corrects errors; no additional charges or defendants.
- ☐ Involves, for plea purposes, different charges or adds counts.
- ☒ Embraces same subject matter but adds the additional defendants or charges below:

Defendant name

Herbert Bernard Johnson

Charges

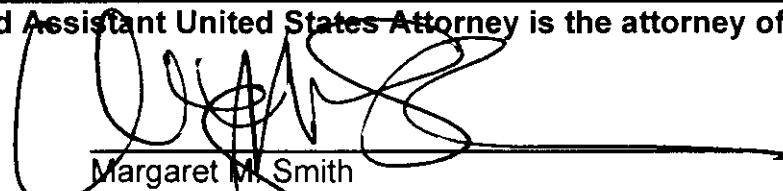
18 U.S.C. 2252A(a)(1)

Prior Complaint (if applicable)

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

Sept. 29, 2016

Date


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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.